IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RSA No. 582 of 2004

Decided on: March 22, 2006

Bhikham Ram and another **…..Appellants.**

VERSUS

Govind Ram and others **…..Respondents.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?[1] ***Yes.***

For the Appellants : Mr. G.R. Palsara, Advocate.

For the Respondents : Mr. B.K. Malhotra, Advocate, for respondents No.1 to 4 and none for other respondents..

Surjit Singh, Judge (Oral)

Heard and gone through the record.

2. In the present case, the only question that has been raised is whether the Will of late Chhanga Ram, propounded by respondents No.1 to 4 (defendants No.1 to 4), is validly attested, within the meaning of Section 63 of the Indian Succession Act.

3. Chhanga Ram was the father of the appellants and respondents No.1 to 4. He allegedly executed a Will in favour of respondents No.1 to 4. The Will is scribed by an Advocate. It is signed by two persons, one of them, namely Chamaru Ram, has

---

[1] ***Whether the reporters of the local papers may be allowed to see the Judgment? Yes.***

signed it below the words “attesting witness” and the other one, namely Shri Puran Prakash Goel, Advocate, below the written word “identifier”. The Will is duly registered. Before the Sub Registrar also, the Will was signed by said Chamaru Ram and Puran Prakash Goel, as attesting witness and identifier, respectively.

4. The learned counsel for the appellants urges that the Will was required to be attested by two witnesses to meet the requirement of Section 63 but in the present case it is attested only by one witness, namely Chamaru Ram and that the other person, who signed the Will, was an identifier.

5. The respondents examined in the trial Court, the scribe, Chamaru Ram, the attesting witness and Puran Prakash Goel, the identifier. All of them stated with one voice that the Will was scribed as per instructions of the testator and that he was in a sound state of mind at the time of the execution of the Will. All of them further stated that the contents of the Will were read out and explained to the testator and he put his thumb impression as a mark of execution after admitting the contents of the Will to be correct and that thereafter the will was signed by Chamaru Ram and Puran Prakash Goel. In these circumstances, Puran Prakash Goel, even though labeled as identifier in the Will, is in fact an attesting witness.

6. Further, the appellants themselves examined the Sub Registrar, namely PW-3 Shri Ganesh Dass, who registered the Will. He stated that at the time of the registration of the Will, he had read out and explained the contents of the Will to testator Chhanga Ram

and that he put his signatures on the reverse of the Will in his presence and thereafter Chamaru Ram, attesting witness, and Puran Prakash Goel, identifier, also signed the Will.

7. The Hon'ble Supreme Court in ***Pentakota Satyanarayana and others v. Pentakota Seetharatnam and others (AIR 2005 Supreme Court 4362),*** vide Para-24, has held that the signatures of the Registering Officer and identifying witnesses affixed to the endorsement of registration, are sufficient attestation of the Will. It has further been held that the endorsement of the Sub Registrar that the executant has acknowledged before him the execution of the Will also amounts to attestation.

8. In the present case, not only that there is the endorsement of registration, the Sub Registrar, who registered the Will, was examined, and he stated in no uncertain terms that at the time of the registration of the Will, he had read out and explained the contents of the Will to the testator and it was thereafter that the testator signed the Will on the reverse, below the rubber stamp impressed endorsement of registration and then Chamaru Ram, attesting witness, and Puran Prakash Goel, identifier, also signed the Will below the aforesaid endorsement and after that he put his signature as Registering Authority.

9. In view of the abovestated position, I do not agree with the submission of the learned counsel for the appellants that substantial question of law as to the manner of attestation of Will is involved. Hence, the appeal is dismissed.

CMP No.1157/2004

Dismissed. Interim order, dated 3.1.2005, passed on the application, is vacated.

(Surjit Singh)
Judge.

March 22, 2006(sd)